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McGIMPSEY CASE

SPEAKING NOTE

You will, I am sure, be aware that the Supreme Court dismissed the appeal of the McGimpsey brothers against the decision of the High Court which found the Anglo-Irish Agreement to be constitutional. While this judgment comes as no surprise to us, the fact that all five judges agreed that all the grounds of appeal should be dismissed is particularly helpful.

## McGIMPSEY CASE

### Judgment of the Supreme Court

In a reserved judgment delivered today [1 March] the Supreme Court dismissed the appeal of the McGimpsey brothers against the decision of the High Court which found the Anglo-Irish Agreement constitutional.

The judgment dealt first with the issue of "locus standi" [ie whether the plaintiffs had an interest which needed to be vindicated.] All five concurred that it was doubtful whether this was the case but agreed to entertain the appeal. [There will be two judgments on this point.]

The grounds for the appeal were identified as;

- [a] - that the Agreement violated Articles 2 and 3 of the Constitution
- [b] - that Agreement, in creating the Intergovernmental Conference and the Secretariat, placed fetters in a manner not authorised by the Constitution on the power of the Government to conduct policy in the external relations field, and
- [c] - that the Government was not entitled under the Constitution to enter into an international agreement in disregard of the interests of one section of the community on the island of Ireland.

All five judges dismissed these grounds of appeal. The terms of the judgment, which will have to be examined carefully when it becomes available, did not on hearing give rise to any concern as to the standing of the Agreement. The judgment concluded with the following phrase: there is a high degree of improbability that an attempt to resolve the Northern Ireland issue by peaceful means and through constructive dialogue would ever be inconsistent with the ideals of peace enshrined in the Constitution.

Costs were awarded to the State.